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June 4, 2015

Magistrate Marilyn Go, U.S.D.J.
United States District Court
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Brown v. Marriott International, Inc.
Docket No.: 14 CV 5960 (SLT) (MDG)
Handling Attorneys: Alan C. Salzman, Mitchell G. Shapiro and Harvey Winer

Dear Magistrate Go:

We represent the Plaintiff; as per your 5/27/15 order (22) and 5/29/15 Order, we hereby supplement our 6/3/15 letter (21). We are attempting to compel defendant Marriott International, Inc. (MII) to provide discovery. The discovery we seek will be essential in order to oppose defendant's pending request for a pre-motion conference, to move to dismiss the amended complaint for failure to state a cause of action and/or their forum non conveniens application. (23) Defense also claims the St. Kitts entities are indispensable parties that cannot be impleaded here.

We filed an amended Summons and Complaint on 5/12/15 (16). Our contention is that that MII should be held liable for any negligent acts or omissions at the St. Kitts Marriott hotel. Further, the defendant MII induced plaintiff to believe (and all hotel customers who vacationed at the St. Kitts hotel) that it, MII, was the parent company, and would stand by and be answerable for any wrongful conduct (negligence) in St. Kitts. Defendant MII could have disclaimed responsibility in writing (in its brochures or website) for St. Kitts incidents (as it has done with other of its entities) but opted not to.

Armed with the evidence we now seek, if defendant is allowed to make a forum non conveniens motion (which is their intention) we will be able to defeat the motion by showing that defendant MII is already subject to this court's jurisdiction, and venue should remain here in Brooklyn, NY. Indeed, the defendant MII and the St. Kitts hotel and related entities in St. Kitts are all covered by the same liability insurance policy. Without this evidence we will be at the mercy of defendant MII, as they seek to remove this case to St. Kitts.

In our amended complaint (16), and in the original complaint, we claimed among other things based on agency and estoppel, that the defendant MII should be liable for acts of negligence committed in St. Kitts. We also claim defendant MII fraudulently induced customers to believe that defendant MII controlled the St. Kitts hotel, and by attaching the Marriott name and reputation to St Kitts, vouched for the safety of the St. Kitts hotel and should be answerable for any acts of negligence. Defendant MII benefits financially via its ownership, management, licensing agreements with the St Kitt's hotel, and through advertising induces customers to believe that by choosing the St Kitts hotel, they have selected the Marriott brand.

An equitable analysis is called for.

3/4/15 Notice of Discovery

Our notice for discovery dated 3/4/15 contained 32 separate demands (14—which contains our 4/30/15 letter to Judge Townes, our demands and defendant responses); defendant agreed to and provided disclosure as to only several items. As required we will quote verbatim each demand and follow with the grounds for prevailing on each request:

1. "Listing of names of officers and directors of Marriott International Inc. (MII), Royal St. Kitt's Beach Resort Ltd. (RSK) and Luxury Hotels International Management St. Kitt's Ltd. (LHI) as of July 2013":

Defendant only provided the officers etc. of defendant MII. However later on in answer # 21 he admits that Luxury Hotels is an "indirect wholly owned subsidiary of MII" but refused to disclose a listing of Luxury's officers/ directors. He also objected that "foreign entities are not related to or under the control of defendant (MII)—suggesting that he has no control over RSK. We should have lists of all the various corporate officers/directors of all the entities.

2. "Liability insurance policies covering personal injury accidents that accrued in July 2013 issued in favor of MII, RSK and LHI":

Here defendant provided the insurance policy—and it in turn disclosed names of additional Marriott/ St. Kitts entities—all insured under the same policy of insurance—the names of which we cited in our amended Summons and Complaint as "the St Kitts entities" which includes entities in addition to the few we knew about when we drafted our 3/4/15 notice. This discovery demand should really be construed to obtain information as to all "the St. Kitts entities" referenced in the amended complaint (16).

The policy supports our position that defendant MII and the various St. Kitts entities are inextricably bound together—why after all name defendant MII as an insured on the same policy if in fact it is legally a distinct unrelated entity? A copy of the "deck sheet" from the insurance policy is attached (Exhibit "A")—which confirms that if defendant MII sued the St. Kitts entities, they would be suing insureds from the same policy—the carrier would never authorize it.

3. "By laws of MII, RSK and LHI in effect July 2013":

Defendant refused to produce the bylaws of his own client defendant MII, not to mention the other entities.

4. "Print, media, internet, television, and other advertising touting RSK or the St. Kitt's Marriott Resort Hotel as a vacation destination, published or made available in the City of New York January 2013 through June 2013":

Here we seek any advertising media which was available or ran in the City of New York—focusing on the subject St. Kitts hotel—to show that defendant MII was involved in encouraging customers to choose the St. Kitts hotel as their destination—defendant objected stating we seek information from foreign entities but this would be from defendant MII directly—and defendant also objected that we could obtain this "public realm" information on our own—but since we seek information from January 2013 to July 2013, it would be impossible to cull this on our own while defendant need only contact its public relations/ advertising departments which surely maintain files on all of this.

5. "Deed or lease to in effect July 2013 applicable to the St. Kitt's Marriott Hotel property":

The deed or lease will reveal who owns the property in question—the land and/or the buildings.

6. "Franchise agreements and licensing agreements between MII and RSK in effect July 2013":

Defendant has stated there are no franchise agreements.

7. "Pictures depicting the subject St. Kitt's Marriott Resort Hotel taken January 2013 through July 2013 showing the lobby (and all signage), the entrance way (all signage) and all signs containing the "Marriott" name":

Defendant has stated they have no such pictures.

8. "Rules of operation of RSK and LHI in effect July 2013":

Here as before defendant objected, claiming they have no control over these foreign entities. However they also elsewhere admitted that Luxury was a wholly owned subsidiary of defendant MII. Surely therefore we should have these rules of operation as to Luxury (LHI).

9. "Rules and Regulations of RSK or St. Kitt's Marriott Resort Hotel in effect July 2013 as to maintenance and up keep of the guest rooms including the air conditioners":

Again defense asserts they have no means to obtain information from the St. Kitts hotel, that MII does not control this hotel, despite that the hotel is a Marriott entity. The underlying personal injury case concerns a leaking air conditioner, which in turn leaked onto the plaintiff's hotel floor, causing her to slip and fall and sustain very serious injury and surgery.

10. "Personnel policies of RSK and MII including names of hiring officers and their employer's name January 2013 to June 2013":

Despite that this demand seeks documents (personnel policies) from defendant MII, including names of hiring officers, defendant objected—and as to RSK, again asserts they have no control over the foreign nonparty entity.

11. “Documents revealing who paid the advertising budget of RSK or for the St. Kitt’s Marriott Hotel January 2013 to July 2013”:

This demand potentially goes to the heart of the issue—who paid for the St. Kitts hotel advertising? Defendant objects again—asserting no control over a foreign entity—but we still do not know who paid—if defendant MII pays or contributes to the advertising budget of the St Kitts hotel, surely that shows financial interest and involvement. Defendant MII profits from the St. Kitts Hotel.

12. “Print out” of venues and index numbers of all personal injury cases in the United States and Federal Courts wherein defendant MII, and RSK or LHI are named defendant’s for accidents that accrued January 1, 2010 through July 1, 2013”:

Defendant asserts here that this information may be obtained by plaintiff via a litigation search. However we seek only cases that accrued within a specified period, and a litigation search would not narrow it down in that fashion. Defense has easy access to this information, and production would not yield a voluminous amount of cases.

13. “Names and addresses of accountants for MII, RSK, and LHI for tax years 2010, 2011, 2012 and 2013”:

If the three entities all share accounting firms, it would support plaintiff’s position that their interests are intertwined.

14. “Tax forms showing gross Revenue for RSK in 2012 and 2013, and the portion if any paid to defendant MII”:

Here we seek moneys paid to defendant MII by the St Kitts hotel (via tax forms filed by defendant MII, not a foreign entity). This information would be from the defendant itself, not the foreign entity (again that was defendant’s repeated objection as to almost every demand). Defendant MII may have had licensing agreements or other agreements with the “foreign” entities, from which defendant MII profited. I say “may” because that is how defense worked his 6/2/15 letter to Judge Townes (23 page two).

15. “Any notices, publications, disclaimers or information issued to guests or prospective guests in 2012 and 2013 at the St. Kitt’s Marriott Resort, indicating that Marriott International Inc., does not own, operate or manage the St. Kitt’s Marriott Resort and the Royal Beach Casino”:

Again defendant objected “we have no control over foreign entities” but this demand includes disclaimers and notices issued by defendant MII itself. Notably, one of defendant MII subsidiaries, the Marriott Vacation Club, goes out of its way to issue disclaimers (Exhibit “B”). Certainty if MII issued a disclaimer between its entities MII and Marriott Vacation Club than why not issue the same disclaimer between MII and the Marriott St. Kitts Resort and the Royal Beach Casino—and

defendant MII could have done the same but opted not to. How can American citizens know that they are signing up for at the St. Kitts hotel?

16. "The Marriott International Inc. 2012 and 2013 annual report to the Securities and Exchange Commission":

Defendant has supplied its annual report for 2013.

17. "The Marriott International, Inc. 2012 and 2013 annual report to shareholders":

See paragraph 16.

18. "Listing of how many of Marriott International, Inc. Hotels are wholly owned by Marriott International, Inc.":

Again this goes to the heart of the matter—actually does MII wholly own any hotels? Defendant objected based on relevance.

19. "Listing of Marriott International Inc. hotels that were managed by Marriott International Inc., in 2011, 2012, and 2013":

Similarly does MII "manage" any hotels—or is that function delegated to subsidiary management entities? Defendant again objects, claiming "foreign entities/ we have no control" but this is information sought directly from defendant MII. Is the St Kitts hotel on the list? We already know that LHI (Luxury) is a wholly owned subsidiary of defendant MII.

20. "Disclaimers published by MII in 2011, 2012, and 2013 indicating that MII is not responsible for accidents that occur at the St. Kitt's Marriott Hotel property":

This is related to but different from #15 supra. Has defendant MII warned in writing that it will not be responsible for accidents that occur on the St. Kitts hotel property? Defendant again asserts relevance—but this goes to the heart of the issue again. Defendant MII is attempting to show that it cannot be liable for what happened in St. Kitts—aren't American citizens entitled to know this in advance?

21. "Listing of any subsidiary Marriott Corporation entities that are involved at or associated with the St. Kitt's Hotel, other than Marriott International, Inc.":

Here defendant MII reveals that LSK (Luxury Hotels) is a subsidiary.

22. "Documents showing when Veronica Brown, paid her Hotel bill at the St. Kitt's Marriott Hotel in July 2013/or whose account said payment was credited to":

Where did plaintiff's hotel payment go? Into whose account? Who profited?

23. "Any publication, literature or any other information given to the general public by Marriott International, Inc. that notifies its guests at the St. Kitt's Marriott Hotel, that in the event of an accident

causing injury at said Hotel, the guests would be required to bring a legal proceeding in St. Kitt's, and would be barred from bringing a proceeding in the United States in the jurisdiction in which they reside”:

This is related to #20 supra, but specifically seeks defendant MII notices or warnings that if someone visits the St. Kitts hotel and gets hurt, they will be barred from suing in their home jurisdiction. Again defense objected on the foreign entity grounds, but this would come from defendant MII.

24. “Documents showing the gross revenues for Marriott International, Inc. for the tax years 2012 and 2013”:

Defendant provided this information with its annual report.

25. “List of all Hotels that Marriott International Inc. has under its umbrella”:

This is related to #18 and #19 supra. Defendant asserts relevance again—but if the St. Kitts hotel is listed under the defendant MII “umbrella” as we called it that would again show control over the St. Kitts entity.

26. “List of countries in which Marriott International Inc. operates Hotels”:

Similar to #25 above, how far throughout the world does MII reach—defense again claims not relevant—

27. “Records of maintenance performed July 2011 through August 2013 at the St. Kitt's Marriott Hotel Room 455, regarding the air conditioning or the air conditioning vents”

This again goes to records regarding maintaining the St. Kitts air conditioning units. Defendant objects again “foreign entities/ no control”. Surely a phone call to St. Kitts from a MII officer will yield these results. They are insureds under the same policy of insurance—they are related not strangers..

28. “Documents showing from July 2011 to July 2013 how many times did maintenance at the St. Kitt's Marriott Hotel fix any air conditioner or air conditioning vent in any room at said St. Kitt's Marriott Hotel”:

Similar to #27 supra—and defendant asserts same objection.

29. “St. Kitt's Marriott Hotel floor plans showing number of guests rooms in 2012 and 2013”:

This would show how large the St Kitts hotel is, and how many units would have to be maintained. But again—defense objects “foreign entity”. Surely a phone call to St. Kitts would get the floor plans.

30. “The names and addresses of all corporations or other entities who by contractual relationships either oral or written pay money to Marriot International, Inc. for operations at the St. Kitt's Marriott Resort”:

To what extent has defendant MII profited from receiving money from outside entities in exchange for obtaining the right to operate businesses at the St. Kitts hotel?

31. "Samples of Stationary provided to guests at the St. Kitt's Marriott Hotel in 2012 and 2013":

Our client advises that she recalls seeing stationary in her room which had a defendant MII letterhead.

32. "Copy of ad in the St. Kitt's phone directory for the St. Kitt's Marriott Hotel in the 2011, 2012 and 2013 books":

Again, a phone call to St. Kitts would elicit this.

Respectfully submitted,
SALZMAN & WINER, LLP.



Mitchell G. Shapiro, Esq.

MGS/mc
Encl.

cc: Daniel M. Stewart
WHITE FLEISCHNER & FINO, LLP.
Attorneys for Defendant
61 Broadway
New York, NY 10006

Exhibit “A”

**FOREIGN COMMERCIAL GENERAL LIABILITY INSURANCE
OCCURRENCE-BASED COVERAGE**

American Home Assurance Company
Executive Offices:
175 Water St. New York, NY 10038

DECLARATIONS

POLICY NUMBER: 03-1742

RENEWAL OF POLICY NO.: 03-1584

ITEM 1. NAMED INSURED: <u>Royal St. Kitts Golf Club, St. Kitts Marriott Resort & The</u> <u>Royal Beach Casino, Marriott St. Kitts Beach Club and</u> <u>Marriott International, Inc.</u> <input type="checkbox"/> Individual <input type="checkbox"/> Partnership <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Joint Venture <input type="checkbox"/> Other: _____ Dollar amounts are: <input checked="" type="checkbox"/> US Dollars <input type="checkbox"/> Canadian Dollars	NAMED INSURED'S ADDRESS (including country): <u>Frigate Bay Road, Frigate Bay, St. Kitts, West Indies, St. Kitts</u> <u>& Nevis</u> BUSINESS DESCRIPTION OF THE NAMED INSURED: <u>Lodging, Hospitality, Contract Services, Contract Catering and</u> <u>Other Business Activities</u>														
Locations of all Premises you Own, Rent, or Occupy: <u>Frigate Bay Road, Frigate Bay, St. Kitts, West Indies, St. Kitts & Nevis</u>															
ITEM 2. POLICY PERIOD (m/d/y): From: <u>October 1, 2012</u> To: <u>October 1, 2013</u> (12:01 a.m. Standard Time at the address set forth above)															
ITEM 3. LIMITS OF INSURANCE: In consideration of receipt of the full premium, and subject to all the terms, conditions, and exclusions of this policy, we agree to provide the following limits: <table style="width:100%; margin-top: 10px;"> <tr> <td style="width:70%;">Master Control Program Aggregate:</td> <td style="width:30%; text-align: right;">Not Applicable</td> </tr> <tr> <td>General Aggregate Limit (Other Than Prod-Comp Operations):</td> <td style="text-align: right;">Not Applicable</td> </tr> <tr> <td>Products-Completed Operations Aggregate Limit:</td> <td style="text-align: right;">\$3,000,000</td> </tr> <tr> <td>Personal & Advertising Injury Limit:</td> <td style="text-align: right;">\$3,000,000</td> </tr> <tr> <td>Each Occurrence Limit:</td> <td style="text-align: right;">\$3,000,000</td> </tr> <tr> <td>Medical Expense Limit:</td> <td style="text-align: right;">\$10,000</td> </tr> <tr> <td>Damage To Premises Rented To You Limit:</td> <td style="text-align: right;">\$3,000,000</td> </tr> </table>		Master Control Program Aggregate:	Not Applicable	General Aggregate Limit (Other Than Prod-Comp Operations):	Not Applicable	Products-Completed Operations Aggregate Limit:	\$3,000,000	Personal & Advertising Injury Limit:	\$3,000,000	Each Occurrence Limit:	\$3,000,000	Medical Expense Limit:	\$10,000	Damage To Premises Rented To You Limit:	\$3,000,000
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Damage To Premises Rented To You Limit:	\$3,000,000														
ITEM 4. PREMIUM: <table border="1" style="width:100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th style="width:25%;">Exposure</th> <th style="width:25%;">Premium Basis</th> <th style="width:25%;">Rate</th> <th style="width:25%;">Premium</th> </tr> </thead> <tbody> <tr> <td rowspan="3"><u>General Liability/Auto</u></td> <td><u>Revenue/# of Units</u></td> <td><u>Flat Charge</u></td> <td rowspan="3" style="text-align: center; vertical-align: middle;">REDACTED</td> </tr> <tr> <td colspan="2" style="text-align: center;">Total Premium Payable at Inception:</td> </tr> <tr> <td colspan="2" style="text-align: center;">Minimum Earned Premium:</td> </tr> </tbody> </table>		Exposure	Premium Basis	Rate	Premium	<u>General Liability/Auto</u>	<u>Revenue/# of Units</u>	<u>Flat Charge</u>	REDACTED	Total Premium Payable at Inception:		Minimum Earned Premium:			
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	Total Premium Payable at Inception:														
	Minimum Earned Premium:														
In Case of Loss, Notify: <u>WorldSource Claims</u> <u>E-mail: worldsourcenyclaimsreporting@chartisinsurance.com</u> <u>Web: http://www.chartisinsurance.com/wsclaimsreporting</u> <u>Fax: +1.212.881.9002</u>	Broker's Name & Address: Commission: <u>CGM Insurance Brokers</u> <u>Included</u> <u>(Barbados) Ltd.</u> <u>Haggall Hall, St. Michael</u> <u>Bridgetown, Barbados, West</u> <u>Indies BB11059</u>														


AUTHORIZED REPRESENTATIVE

- A -

Exhibit “B”

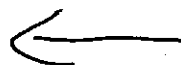


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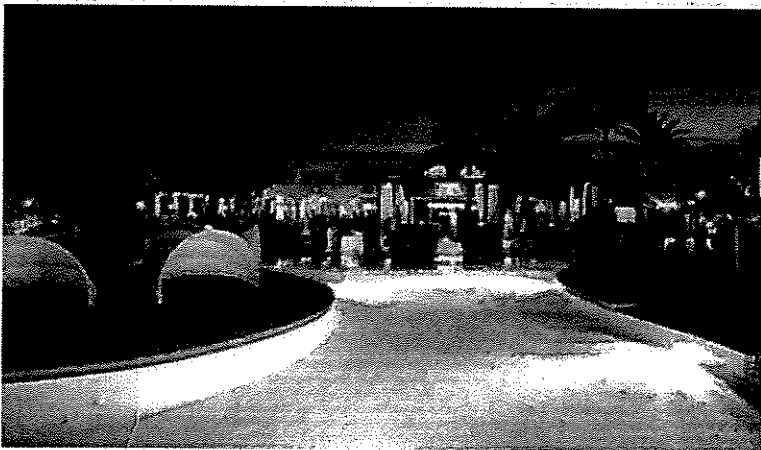
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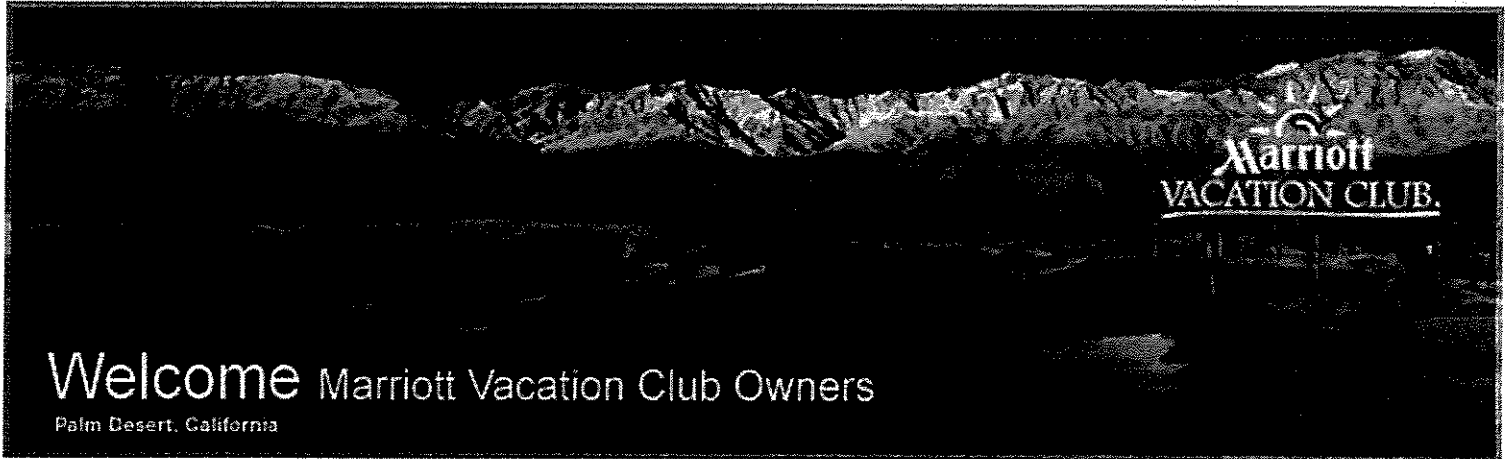
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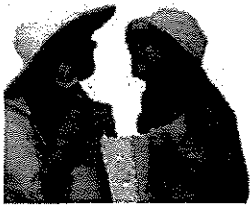
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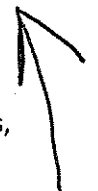
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Exhibit “C”



English-US & Canada

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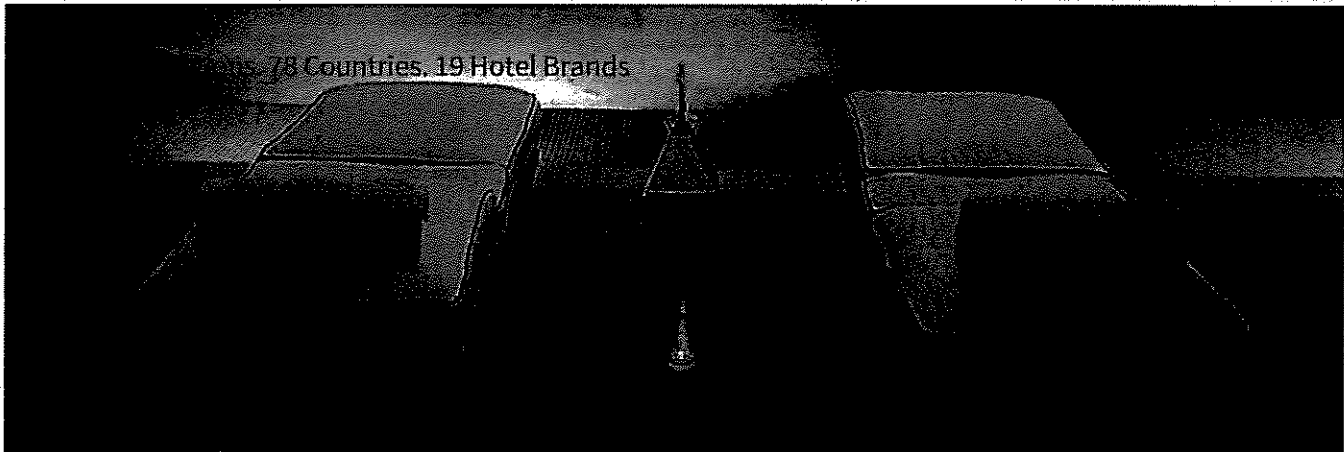
Email or Rewards #

Password

Sign In

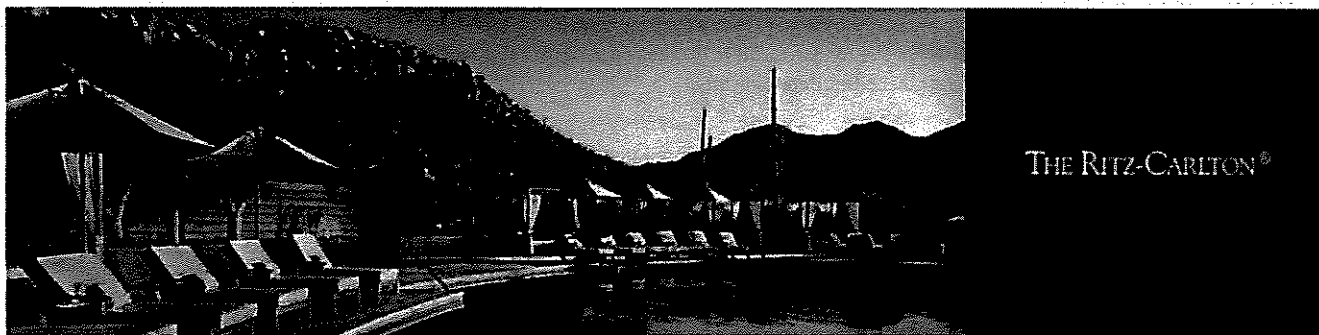
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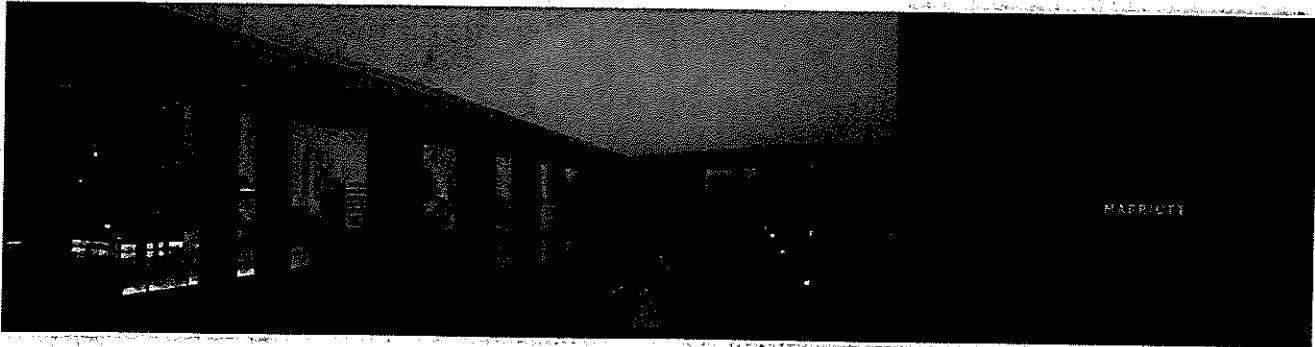


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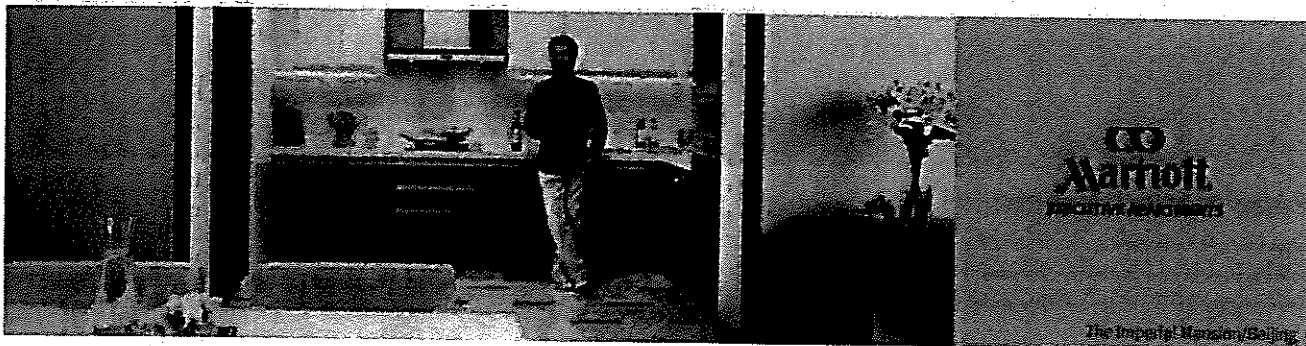
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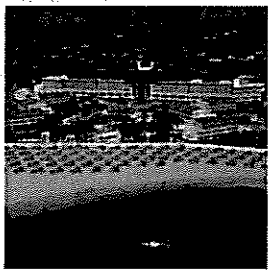
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